HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.NO. 24776 OF 1996

DATED: 16.7.2007

Between:

M.S. Sriramacharyulu and another

… Petitioners

and

The District Collector (Land Acquisition),
Visakhapatnam District and another

… Respondents

HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.NO. 24776 OF 1996

ORAL ORDER:

The petitioners approached this court and filed the present writ petition with the following prayer.

> ***"For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus directing the Respondents herein to denotify the lands acquired in Plot No.147 of the 1st petitioner and Plot Nos. 194 and 195 of the 2nd petitioner in Sy.No.9 of Aganampudi village of Visakhapatnam (acquired vide award No.11/81 dated 25.7.1981) and restore the Plot No.147 to the extent of 226 2/3 sq.yds to the 1st petitioner and 533 1/3 sq.yds in Plot Nos. 194 and 195 to the 2nd petitioner, in Sy.No.9 of Aganampudi Village of Visakhapatnam and award costs and pass such other order."***

According to the petitioners, they are the absolute owners of Plot No.147 admeasuring 226 2/3 sq.yds and Plot Nos. 194 and 195 admeasuring 533 1/3 sq.yds in Sy.No.9 of Aganampudi village, Visakhapatnam District. However, as the said lands were required for public purpose i.e., construction of A.P. Refractories Limited, a notification was issued under Section 4 (1) of the Land Acquisition Act, 1894 (for short 'the Act') on 25.7.1981 proposing to acquire the said

lands and thereafter compensation was fixed. However, the petitioners received the compensation under protest. Though they sought for enhancement of compensation, the authorities did not take any action. It is also stated that though the A.P. Refractories was established, subsequently it went into liquidation in 1986 and thus the entire properties belonging to the said A.P. Refractories Limited were entrusted to the Official Liquidator. As the purpose for which the land was acquired is not in existence, the petitioners approached this court and filed the present writ petition for issuance of a writ of Mandamus directing the respondents to denotify the lands mentioned above and put the petitioners in possession of the same.

A counter affidavit is filed, wherein it is stated that the lands of the petitioners and various others were acquired for the purpose of establishing A.P. Refractories Limited, but however, the same went into liquidation and hence the Government took back these lands and thus the possession is with the Government. It is also stated that a company by name “Mid East Steel Company” had proposed to revive the defunct A.P. Refractories Limited, but so far it could not be materialized. Further, it is averred that when once all proceedings under the Act are over and the title of the land vests with the Government, the question of reconveying or denotifying the land will not arise.

Heard the learned counsel on both sides.

The law on this aspect is settled by the Supreme Court to the effect that when once the title is vested with the Government, the

question of denotification does not arise. Therefore, this court is bound by the law of the land. However, in view of the fact that both the parties admitted that the entire land including the land covered by A.P. Refractories Limited is in the custody of the Official Liquidator, this court is of the opinion that if the lands are not required for any other public purpose and the same are proposed to be sold away by way of an auction, the Official Liquidator may permit the petitioners or their authorized agents also to participate in the said auction so that there may be a possibility of petitioners getting back the lands in question.

Accordingly, this writ petition is disposed of as above. There shall be no order as to costs.

GOPALA KRISHNA TAMADA, J

Date: 16.7.2007

cvm